IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3887 of 2007

Sounak Bimalchandra Das .. Petitioner

versus

The Director of Technical Education,
Government of Maharashtra & ors. .. Respondents

...

Mr.N.N. Shah for the petitioner.

Mr.R.A. Rodriques with Mr.Phadnis for respondent no.2.

Ms.V. Mhaispurkar AGP for respondent nos.1 and 4.

CORAM : D.G.Karnik and
A.A. Sayed, JJ
(Vacation Court)
DATED : 16th May 2007.

P.C.:

1. Heard the learned counsel appearing for the parties.

2. By this petition, the petitioner challenges the letter dated 17th April 2007 written by the third respondent at the behest of the respondent no.1 cancelling his admission for 1st Year computer engineering course on the ground that the petitioner had not produced the caste validity certificate showing that he belonged to a scheduled caste.

3. Petitioner claims to belong to "Namasudra" caste which is recognised as "Scheduled Caste" in the State of West Bengal, under the Constitution (Scheduled Caste) Order 1950 issued by the President of India. The petitioner possesses a caste certificate issued by the Sub-divisional Officer, Kharagpur, Government of West Bengal which shows his caste to be "Namasudra". On the basis of the said certificate, petitioner secured admission to the first year of computer engineering in the respondent no.3 College in the State of Maharashtra. He did not produce the caste validity certificate as required. After the admission, the matter was referred to the Director of Education, who directed the respondent no.3 to cancel the admission of the petitioner on the ground that the petitioner had not proved that he belonged to a scheduled caste.

Accordingly by the letter dated 17th April 2007, the admission of the petitioner has been cancelled.

4. Perusal of the Presidential Order of 1950 shows that "Namasudra" is declared as a scheduled caste for the State of West Bengal only. It is not declared as a scheduled caste for the State of Maharashtra. In Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Anr Vs. Union of India and Anr. reported in (1994) 5 SCC 244, the Constitution Bench of the Supreme Court has observed as follows :-

> "We may add that considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes/Scheduled Tribes or backward classes in a given State would depend on the nature and extent of disadvantages and social hardships suffered by that case, tribe or class in that State which may be totally non est in another State to which persons belonging thereto may migrate. Coincidentally it may be that a caste or

> tribe bearing the same nomenclature is specified in two States but the considerations on the basis of which they have been specified may be totally different. So also the degree of disadvantages of various elements which constitute the input for specification may also be totally different. Therefore, merely because a given caste is specified in State A as a Scheduled Caste does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State "for the purposes of this Constitution".

5. In our view a person who belongs to a case which is declared as a Scheduled Caste in a State would be entitled to benefits conferred on the Scheduled Castes in that State only and would not be entitled to claim the said benefits in another State in which the caste is not declared as a Schedule

Caste. Since petitioner's caste is not declared as a schedule caste in the State of Maharashtra, petitioner is not entitled to claim benefits available to the students belonging to the schedule caste and cannot claim admission to a reserved seat in an educational institution on the basis that he belongs to a caste which is not declared as a scheduled caste for the State of Maharashtra.

6. That apart the petitioner has not produced a caste validity certificate obtained from the competent authborities viz. caste scrutiny committee.

7. For these reasons there is no merit in the petition which is hereby dismissed summarily.

(D.G.KARNIK, J)

(A.A. SAYED, J)